

REMARKS

Applicant respectfully requests reconsideration and continued examination of this application in view of the amendments and the following remarks. Claims 1-19 are pending in this application.

1. 35 U.S.C. § 112 Objections

Claims 1-12 were rejected for being indefinite. In particular, claims 1, 4 and 7 were rejected for lacking an antecedent basis. Claim 1 was amended to provide antecedent basis and the Examiner's stated assumption on page 2 of the Office Action is correct. In claim 4, antecedent basis for "the audible alarm device" is found in original claim 1, line 6 ("an audible alarm device"). Claim 7 was amended to correct a typographical error. Applicant thanks the Examiner for pointing out these deficiencies.

None of the amendments to the claims narrow the claim scope.

2. Other Claim Amendments

Claim 3 was amended to correct an omission. Claim 19 was amended for clarification.

None of the amendments to the claims narrow the claim scope.

3. Prior Art Rejections

Claims 1-6 and 8-19 were rejected under 35 U.S.C 103(a) as being unpatentable over US Patent No. 6,359,564 issued to Thacker ("Thacker"). This rejection is respectfully traversed. Independent claims 1 and 14 are patentable because Thacker does not teach or suggest the claimed inventions. For example, Thacker does not disclose or suggest an "audible warning in response to the detection of the person by the motion detector device."

Moreover, Thacker is concerned with detecting whether a person is located within his workspace. There is no reason stated in Thacker for a detection range of less than about five (5) feet, nor does Thacker teach or suggest such a motion detector.

Furthermore, there is no reason stated or implied in Thacker to limit detection to about five (5) feet or less. Indeed, the purpose of Thacker's device is to detect a person in his workspace. Workspaces are often and in fact usually larger than five (5) feet in length and/or width. Consequently, Thacker does not limit or even remotely suggest limiting the detection range to less than about five (5) feet. In addition, dependent claims 13 and 19 are patentable for additional reasons. Thacker does not teach or suggest the ceasing or shutting off of an audible warning "after a predetermined period of time in response to detected motion" and resetting the audible warning device "when motion is no longer detected by the motion detector device."

Thacker teaches that when a person enters an office cubicle, a green light is constantly illuminated. Col. 4, lines 54-59. If a person stays in the cubicle and does not move for a predetermined length of time, Thacker teaches that this is an emergency condition illuminating a red emergency alarm. Col. 4, lines 38 – 53 and lines 59-65. Thacker also teaches the use of a beeper 112 for emergencies. See abstract; col. 4, lines 12-23; col. 4, lines 64-65; and col. 7, lines 56-62. The beeper 112 will sound intermittently while the red light flashes. Col. 4, lines 62-65; col. 7, lines 56-58. Thus the beeper sounds when a person is detected, but movement is not.

Independent claims 1 and 14 claim a device that gives an audible warning when a person is detected near the detector device. In particular, the claims state "the audible alarm device [is] associated with the detector device so that the audible alarm device provides the audible warning in response to the detection of the person by the detector device...." Thacker teaches that the beeper sounds when a cubicle occupant is detected but movement is not, to alert people to the possibility that the cubicle occupant is comatose and needs help. Thacker does not teach the sounding of a warning when a person is detected because the mere detection of a person is not an emergency, i.e. a person is not likely having a medical emergency. When a person is detected in Thacker, the audible alarm generally does not sound because emergencies are the exception. Thus, Thacker teaches away from the sounding of an audible warning "in response to the detection of the person" because there would be no emergency and because sounding the beeper during routine conditions risks making

people impervious to an alarm when a real emergency occurs. Consequently, claims 1 and 14 are patentable over Thacker. Therefore, the remaining claims are patentable because they depend on claims 1 and 14.

Dependent claim 13 claims an audible alarm device that gives an audible warning when a person is detected near the detector device that shuts off the warning after a predetermined period of time of continued motion, and that resets the audible warning device after no motion is detected so that the device may give an audible warning again. Dependent claim 19 claims a method of shutting off the audible warning after a predetermined period of time and resetting the audible alarm device. In contrast, Thacker does not sound the beeper 108 while motion is detected and only sounds the beeper after motion is not detected for a predetermined period of time. Thus, Thacker teaches the opposite of “shutting off the audible warning after a predetermined period of time in response to detected motion by the motion detector device.” Furthermore, Thacker is silent on the audible alarm device resetting itself. However, if the audible alarm device of Thacker could reset itself, it would make sense that it resets itself when it detects motion, which would indicate that the occupant of the cubicle was alive or that someone has entered the cubicle to save the occupant. Thus, Thacker teaches away from resetting the alarm “when motion is no longer detected by the motion detector device.”

In view of the foregoing, Thacker does not teach or suggest the invention of claims 1-19 under 35 U.S.C. § 103. Consequently, claims 13 and 19 are independently patentable over Thacker.


Additionally, the claims are patentable because Thacker is not analogous prior art. The present invention is directed towards alerting a person approaching a substantially transparent door of the proximity of the door. Thacker is entitled “Occupancy Status Indicator” and is generally directed to alerting third parties of the occupancy of a cubicle. Occupancy status indicators are commonly used in bathroom stalls, portable toilets commonly known as porta-potties, and airplane bathrooms, which indicate whether the toilet is occupied based on whether the door is locked or not. Thus, a person of skill in the art would not be motivated to search the field of occupancy

status indicators. Although superficially it may seem that Thacker and the present invention are structurally similar in that they both have a detector device and an audible alarm device, they are functionally very different. Thacker's motion detector and beeper have the function of alerting third parties to the possibility that a detected first party is unconscious. The present invention is directed towards alerting a conscious, first party of a substantially transparent door. Thus, Thacker is not analogous prior art. See M.P.E.P. § 2141.01(a) *citing In re Clay*, 23 USPQ2d 1058 (Fed. Cir. 1992) (overturning PTO finding of obviousness because reference disclosing the use of gel to reduce the permeability of formations to enhance recovery of oil was not in the same field and was not functionally similar to claims directed to the use of a gel to occupy the bottom of a petroleum storage tank).

CONCLUSION

In view of the foregoing, all of the rejections have been overcome and claims 1-19 are allowable. An early indication of allowance is solicited.

Respectfully submitted,

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Dated: December 29, 2004

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